



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-016

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

Sections 49.145 (1) and 227.11 (2) (a) (intro.), Stats., and 2015 Wisconsin Act 55, SEC. 9106 are cited in the Explanation of Agency Authority section of the analysis and should also be cited in the statutory authority section of the analysis.

2. Form, Style and Placement in Administrative Code

a. Section DCF 101.09 (2) (n) is cross-referenced in various parts of the rule. However, SECTION 2 repeals par. (n) two years after the effective date of the rule. The department should review the intent of cross-references to par. (n).

b. SECTION 5 creates a note after s. DCF 101.095 (9) which specifies how certain provisions of s. DCF 101.095 apply to an individual who was first determined eligible for a Wisconsin works employment position before the effective date of the rule. Notes may not create substantive provisions. [s. 1.09 (1), Manual.] The department should review this note and consider whether to create a provision of the rule that specifies how s. DCF 101.095 applies to such individuals.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section 49.145 (2) (n) 2. and 4., Stats., is discussed in the Explanation of Agency Authority section of the analysis and should also be cited in the Statutes Interpreted section of the analysis.

b. Section 49.148 (1m), Stats., as affected by 2011 Wisconsin Act 32, is discussed in the Explanation of Agency Authority section, but s. 49.148 (1m) (c), Stats., is cited in the Related Statute or Rule section of the analysis. The department should review which one is the proper citation and use that citation consistently throughout the analysis.

c. The Summary of the Proposed Rule section of the analysis explains that the rule incorporates a statutory update to s. 49.148 (1m) (a) 1., Stats. As such, this statute should also be cited in the Statutes Interpreted section of the analysis.

d. Numerous federal regulations are cited in the Summary of Related Federal Requirements. Should these be cited in the Statutes Interpreted section?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Certain provisions of the rule take effect two years after the effective date of the rule. These provisions with delayed effective dates appear to only apply to an individual who was first determined eligible before the effective date of the rule. The rule, however, does not explain what the intent is of this delayed effective date. For example, it is unclear whether in two years after the effective date of the rule, a 60-month lifetime limit or a 48-month lifetime limit on TANF benefits applies with respect to such individuals. The department should clarify the intent of the rule and clarify what lifetime limit applies to such persons in two years after the effective date of the rule.

b. The intent of SECTIONS 1 and 2 is unclear. SECTION 1 limits all of s. DCF 101.09 (2) (n) to an individual who was first determined eligible for a Wisconsin works employment position before the effective date of the rule and SECTION 2, in combination with SECTION 8, repeals all of par. (n) in two years. It is unclear what will happen to such individuals after par. (n) is repealed. The repeal appears to be unnecessary and may cause confusion. The department should review the intent of SECTIONS 1 and 2 and revise accordingly.

c. The intent of SECTIONS 3 and 4 is unclear. SECTION 3 creates s. DCF 101.09 (2) (nm), and SECTION 4, which takes effect two years after the effective date of the rule, strikes language specifying that par. (nm) does not apply to an individual who was first determined eligible before the effective date of the rule. These changes may cause confusion. The department should review the intent of SECTIONS 3 and 4 and revise accordingly.

d. The intent of SECTION 6 is unclear. SECTION 6, which takes effect two years after the effective date of the rule, repeals a provision which states certain provisions created by SECTION 5 do not apply to an individual who was first determined eligible before the effective date of the rule. This change may cause confusion. The department should review the intent of SECTION 6 and revise accordingly.